

City of Bryan Subdivision Ordinance



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Chapter 110 Bryan Code of Ordinances

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ARTICLE I. IN GENERAL

Section 110-1. Authority and purpose.

(a) This chapter is adopted under the authority of the constitution and laws of the state and particularly V.T.C.A., Local Government Code chapter 212, regarding Municipal Regulation of Subdivisions and Property Development, as amended. The regulations contained herein shall govern every subdivision of land as defined within the corporate limits and extraterritorial jurisdiction of the city.

(b) The purpose of this chapter is to provide for the orderly, safe, and healthful development of the areas within the city and its extraterritorial jurisdiction. Specifically this chapter is intended to coordinate the orderly subdivision of property along with other city ordinances relating to flood prevention and protection, zoning, site development review, access and off-street parking, building codes and other development-related codes.

Section 110-2. Overview.

(a) A filed plat shall be required in accordance with the procedures outlined in this chapter in the following circumstances:

- (1) Subdivision of land into two or more parts.
- (2) Changed configuration of existing filed plats.
- (3) Division of land where there is not access to the tract.
- (4) Division of land where new public infrastructure is required.
- (5) Development of land where new public infrastructure is required.

(b) If the development coordinator or his or her designee determines that a plat or replat is required, no building permit shall be issued by the city for any new or existing structure on property which does not comply with the standards contained or referred to herein. No lot, parcel, or tract of land shall be offered for sale, contract for sale, or option be given until a final plat has been filed.

(c) The division of land into parcels greater than five acres, where each parcel has access and no public improvement is being dedicated is excluded from these regulations.

(d) The developer shall be required to construct, at the developer's expense, all required improvements in strict accordance with all applicable standards of the city. If the city requires oversized public infrastructure, and agrees to participate in the additional costs thereof, it may do so by means of a developer participation agreement in accordance with the Local Government Code, as amended.

Section 110-3. Appeals.

Decisions of the site development review committee (SDRC) may be appealed to the planning and zoning commission. Decisions of the planning and zoning commission may be appealed to the city council. All appeals shall be submitted in writing to the city planner within 30 days upon notification of the decision.

Section 110-4. Definitions.

For the purposes of this chapter, the following terms, phrases, and words, shall have the meaning ascribed to them in this section. Definitions not expressly prescribed herein are to be determined according to customary usage.

Alley shall mean a minor public right-of-way which provides a secondary means of vehicular access to abutting property and which is used primarily for vehicular traffic to the rear or side of properties which otherwise abut on a public street.

Amending plat shall mean subdivision plat that reflects changes to an original filed final plat.

Benchmark. See "Monument."

Block shall mean a tract of land designated on a duly recorded plat and generally surrounded by streets or other physical barriers.

Block length shall mean the distance of land bounded on both ends by a through street.

Building shall mean any structure that encloses a space used for sheltering any occupancy. Each portion of a building separated from other portions by a firewall shall be considered as a separate building.

City attorney shall mean the attorney employed as city attorney of the City of Bryan, Texas, and duly appointed by the city council.

City council shall mean the duly and constitutionally elected governing body of the City of Bryan, Texas.

City manager shall mean the person employed as the chief administrative officer of the City of Bryan, Texas, and duly appointed by the city council.

Comprehensive plan shall mean the plan and adaptations, thoroughfare plan, bikeway plan, future land use plan, gateways and corridors, amendments, or supplements thereto, adopted by the city council and used as a guide for future development of the city and surrounding areas.

Concept plan shall mean the initial plan layout determined by the developer. The plan shall be used as a tool to determine the requirements of the project and an overall design scheme.

County commissioners court shall mean the duly and constitutionally elected governing body of Brazos County, Texas.

Covenant shall mean a private legal restriction on the use of land contained in the deed to the property or otherwise formally recorded.

Cul-de-sac shall mean the circular turnaround at the end of a dead-end street.

Datum. See "Monument."

Density shall mean the number of dwelling units per acre in a residential development.

Developer shall mean any person or persons, firm, or corporation subdividing or developing a tract or parcel of land to be sold or otherwise marketed.

Development coordinator shall mean the person employed as the development coordinator of the City of Bryan, Texas, who acts as the site review chair.

Easement shall mean a strip of land reserved for public use by the grantor and accepted by the city for the installation and maintenance of utility lines, improved drainage ditches or channels, or for other city or public services or for access to property; the ownership or title to the land encompassed by the easement being retained by the owner.

Engineer shall mean a person duly authorized and licensed under the provisions of the Texas Engineering Practice Act (V.T.C.A., Occupations Code chapter 1001), as heretofore or hereinafter amended, to practice the profession of engineering.

Extraterritorial jurisdiction (ETJ) under the terms of V.T.C.A., Local Government Code chapter 42, shall mean the unincorporated area, not a part of any other city, which is contiguous to the corporate limits of the City of Bryan, the outer boundaries of which are measured from the extremities of the corporate limits of the city outward for a distance of 3 1/2 miles, except where it overlaps the ETJ of other municipalities. Such overlaps are apportioned by mutual agreement with the other municipalities, adopted by resolution, and shown on the official ETJ map.

Filed shall mean a plat shall be deemed "filed" in accordance with V.T.C.A., Local Government Code § 212.009(a), once it has been approved by the SDRC.

Final plat shall mean a map of all or a portion of a subdivision that is presented for final approval.

Flag lot shall mean a large lot not meeting minimum frontage requirements and where access to the public road is by a narrow right-of-way or driveway.

Frontage road shall mean a service road, usually parallel to a highway, designed to reduce the number of driveways that intersect the highway.

Gated community shall mean a residential area requiring mandatory membership in a homeowner's association (HOA) and having its primary means of access controlled by an electric or manual gate administered by the HOA.

Homeowner's association (HOA) shall mean any organized group of landowners within a developed project, with voting rights to promulgate rules and regulations over property dedicated to the ownership of the formed association.

Infrastructure improvements shall mean any public facility service or amenity constructed to sustain a proposed land use activity. Infrastructure includes but is not limited to streets, alleys, sidewalks, crosswalks, sanitary sewers, sewage lift stations, septic tanks or other sewage facilities, water mains, water systems, drainage culverts, lined channels, storm sewers, bridges, streetlights, and fire hydrants.

Lot shall mean a physically undivided tract or parcel of land having frontage on a public street and which is, or in the future may be, offered for sale, conveyance, transfer, lease, or improvement, which is designated as a distinct and separate tract and which is identified by a lot number or tract symbol on an approved subdivision plat which has been officially recorded.

Lot depth shall mean the length of a straight line connecting the midpoints of the front and rear lot lines.

Lot, double frontage shall mean a building lot, not a corner lot, which has frontage on two streets that are parallel or within 45 degrees of being parallel to each other.

Lot front or frontage shall mean that portion of a tract of land which is the principal side of a property and which abuts on a public street to which it has direct access. This shall be the same side in which direction a building will face and the side on which there is the main entrance.

Lot width shall mean the shortest distance between side lot lines measured at their intersection with the front setback line.

Major thoroughfare plan shall mean the plan of major and secondary streets and highways, which is the part of the comprehensive plan adopted by the city council.

Master plan shall mean a large-scale map of a proposed subdivision of land, which usually consists of two or more phases of development.

Minor subdivisions. See "Subdivisions, minor."

Monument shall mean a reference point, line, or plane used as a basis for measurements.

Open space shall mean public or common ownership property designated for recreation area, private park, plat lot area, plaza area, building setback and ornamental areas open to general view within the development. Open space does not include streets or alleys.

Parcel shall mean a contiguous lot or tract of land owned and recorded as the property of the same persons or controlled by a single entity.

Pavement width shall mean the width from the back of curb to the back of curb of a street.

Person shall mean any individual, association, firm, corporation, governmental agency, partnership or political subdivision.

Planning and zoning commission shall mean a board, authorized within chapter 2, article III, division 13, comprised of citizens of the city, and appointed by the city council as an advisory body, charged to recommend changes in the zoning and other planning functions as delegated by the city council.

Plat shall mean a map of a subdivision showing the location and boundaries of individual parcels of land subdivided into lots, with streets, alleys, etc., and drawn to scale. As used in this chapter, a plat includes final plats, replats, amending plats, and minor plats.

Preliminary plan shall mean a map indicating the proposed layout of the subdivision or site plan that is submitted to the city staff for preliminary approval.

Replat shall mean the process of vacating any prior subdivision and resubdividing property.

Reserve strip or parcel shall mean any lot, tract, parcel, strip or any other land which prohibits access from public or private tracts or parcels to land dedicated or intended to be dedicated to public use.

Residential (duplex) shall mean a building containing two single-family dwelling units totally separated from each other by an unpierced wall extending from ground to roof.

Residential (single-family) shall mean a building containing one dwelling unit and that is not attached to any other dwelling by any means and is surrounded by open space or yards.

Resubdivision shall mean the vacation and replacement of all or a part of a recorded plat with a new plat which alters a perimeter boundary of the previous plat.

Right-of-way shall mean a strip of land dedicated to the public to accommodate access and/or utilities to lots or tracts.

Sidewalk shall mean a paved pedestrian walkway constructed within a street right-of-way and generally parallel to the street.

Site development review committee (SDRC) shall mean a committee consisting of representatives from various city departments as well as private utility companies, which reviews all plats and development proposals for compliance with applicable codes and ordinances.

Street, arterial shall mean one of an integrated system of streets which serves major traffic movements within or through the city.

Street, collector shall mean a street that serves internal traffic movements within a given area such as a subdivision and connects this area with the arterial system.

Street, cul-de-sac shall mean a street with only one outlet and which terminates in a vehicular turnaround at the other end.

Street, dead-end shall mean a street with only one outlet but with no vehicular turnaround at the other end (see "street, cul-de-sac").

Street, half shall mean a street with a constructed travel lane.

Street, internal shall mean a street within a subdivision that begins at an intersection and ends in a cul-de-sac or connects to the same street of origin. This street does not provide for the through movement of traffic.

Street, local shall mean a street whose primary function is to provide access to adjacent land.

Street, loop shall mean a local street with its only ingress or egress off of the same street.

Street, through shall mean a street within a subdivision designed to carry residential traffic loads to the higher street classifications. Through residential streets may provide access to other internal residential streets.

Structure shall mean anything that is built or constructed.

Subdivision shall mean any division of property for which a plat is required to be approved and recorded under the provision of V.T.C.A., Local Government Code § 212.004. This includes the division of land situated within the corporate limits of the city, or within the city's extraterritorial jurisdiction, into two or more parts for any purpose no matter how it is conveyed. However, it does not include the division of land into parts greater than five acres where each part has access and no public improvement is being dedicated.

Subdivision, major shall mean any subdivision consisting of more than one phase of development.

Subdivision, minor shall mean a subdivision of not more than four lots fronting on existing streets and not requiring the creation of any new street or extension of municipal facilities.

Surveyor shall mean a licensed state land surveyor or a registered professional land surveyor, as authorized by the Professional Land Surveying Practices Act (V.T.C.A., Occupations Code chapter 1071).

TCEQ shall mean Texas Commission on Environmental Quality.

Sections 110-5--110-26. Reserved.

ARTICLE II. PLATTING PROCEDURE

Section 110-27. General residential and commercial.

(a) *Procedure.* Filing of a subdivision plat generally consists of the following procedures:

- (1) Pre-application meeting with city staff (optional).
- (2) Master plan approval (if applicable).
- (3) Preliminary plan approval.
- (4) Final plat approval.
- (5) Construction of infrastructure (if applicable).
- (6) Filing of final plat.

(b) *Applications for master plans, replats, amending plats, preliminary plans, and final plats.* Applications for master plans, replats, amending plats, preliminary plans, and final plats will be submitted to the development coordinator. Applications shall contain the following:

- (1) Application form.
- (2) Sixteen additional paper copies of the plan/plat for SDRC; 20 copies if located within the city's ETJ.
- (3) Application fee as established by resolution of the city council.
- (4) If the plan/plat requires approval of the planning and zoning commission, the following will be required:
 - a. Same number of paper copies of the plan/plat either 24 inch x 36 inch or reduced to 11 inch x 17 inch paper
 - b. A digital copy of the graphics file (if available). Microstation or AutoCAD format preferred.

(5) After approval by the planning and zoning commission, if required, and following all other plat approvals, a Mylar copy of the plat must be provided to the development coordinator.

(c) *Applications for subdivisions.* Applications for subdivisions, which require infrastructure improvements, will also require submittals as outlined in section 110-31(d)(1). A proposed plat shall not be deemed "filed" until it is reviewed and approved by the SDRC and city staff as required by section 110-31(c)(1). The final plat shall be considered for approval or denial within 30 days of filing.

Section 110-28. Preapplication meeting.

Prior to any application submittal, it is recommended that the developer request a meeting with the city staff to discuss the procedures, policies, specifications, and standards required by the city. The submission of a sketch plan, or concept plan, can save the developer time and expense during the approval process.

Section 110-29. Master plan.

(a) *General.* A master plan is required when property is developed in more than one phase, or in areas under common ownership where comprehensive planning issues are identified by the city staff. It provides an opportunity for the developer to illustrate his or her proposed plans before the expense of extensive design is incurred. If the developer wishes to combine the master plan and preliminary plan elements into one submittal, a "master preliminary plan" can be prepared. Any amendments or changes to an approved master plan or master preliminary plan must be processed in accordance with this article.

(b) *Form and content.* The master plan shall depict the following elements as applicable:

- (1) Proposed land uses.
- (2) Proposed densities and lots sizes if submitting a master preliminary plan.
- (3) Proposed zoning.
- (4) Proposed site drainage.
- (5) Proposed public infrastructure layout.
- (6) Proposed public facilities, including but not limited to parks and schools.
- (7) Impacts on existing utilities and traffic, if requested.

(c) *Processing.* The master plan shall be reviewed by the city staff and the SDRC for conformity with the comprehensive plan, major thoroughfare plan, utility master plans, engineering standards and specifications, city ordinances, and the standards specified herein. Upon completion of this review, the master plan shall be submitted to the planning and zoning commission for consideration, conveying staff comments and recommendations. The planning and zoning commission shall study the master plan and all recommendations. Particular attention will be given to the arrangement, location and width of streets, their relation to the topography of the land, lot sizes and arrangement, the further development of adjoining lands and the requirements of city ordinances, policies and plans. The planning and zoning commission shall act on the master plan and may advise the developer of any specific changes or additions they will require in the layout or comment on the character and extent of improvements and dedications that will be required as a prerequisite to the approval of the final plat. The city staff shall inform the developer in writing of the decision of the planning and zoning commission including any conditions for approval or reasons for disapproval. Once the master plan has been approved by the planning and zoning commission, a Mylar copy shall be submitted to the city. A master plan will expire one year after approval unless:

- (1) An extension is applied for and granted by the development coordinator; or

(2) Development activity, as determined by the development coordinator or his or her designee, occurs within the one-year period following the approval of the planning and zoning commission.

In no event may an extension be granted for a period exceeding one year.

Section 110-30. Preliminary plan.

(a) *General.* The preliminary plan shall be consistent with the latest approved master plan, if applicable. Approval or conditional approval of the preliminary plan is required prior to consideration of the final plat by the planning and zoning commission.

(b) *Form and content.* The preliminary plan shall be prepared and sealed by a registered professional land surveyor, engineer, architect, or other professional as applicable and plotted on 24 inch x 36 inch sheets at a scale of not less than one inch = 100 feet. A note shall be provided referencing the name of the surveyor and the date of the survey. It shall conform to the general requirements and minimum standards of design and requirements as set forth in this chapter, and shall include the following information as applicable:

- (1) Title block including proposed subdivision name, phase, block and lot numbers, current legal description (or reference thereto), acreage, name and address of property owner, name and address of surveyor, and date of survey.
- (2) Existing boundary and lot lines with bearings and distances.
- (3) Adjacent property information including present ownership, legal descriptions (recorded volume and page), and property lines.
- (4) Vicinity map, drawn at a scale to adequately show the relationship of the property to adjacent areas and identifying features.
- (5) Scale, north arrow, basis of bearing, and benchmarks (datum) and description.
- (6) Existing contours at intervals of two feet for grades up to five percent and not more than five feet for grades over five percent.
- (7) Preliminary drainage information (i.e., detention pond location and approximate size; preliminary size of facilities).
- (8) Location, size and centerline of all existing and proposed utilities.
- (9) Drainage structures, 100-year floodplain/floodway, watercourses, railroad, structures, and other physical features on or adjacent to the site.
- (10) Location of existing and proposed streets, alleys, bikeways, and sidewalks on or adjoining the site. Such information shall include name, right-of-way widths, type and width of surfacing.
- (11) Location, size and purpose of all existing and proposed easements on or adjoining the subject property.
- (12) Any areas reserved or dedicated for public uses.
- (13) Existing zoning designations and associated building setback lines.
- (14) Existing conditions such as marshes, wooded areas, buildings and other significant features.

- (15) Significant features on adjacent properties such as slopes, structures, and power lines.
 - (16) Proposed minimum slab elevation for wastewater service based on city approved datum for lots where a low tolerance exists if known.
 - (17) Index sheet for plans with more than one sheet that shows the entire subdivision drawn to a scale that is clearly legible.
 - (18) Phasing plan if subdivision is to be constructed in phases.
- (c) *Processing.* The preliminary plan shall be reviewed by the SDRC for conformity with the master plan, city comprehensive plan, major thoroughfare plan, utility master plans, engineering standards and specifications, city ordinances, and the standards specified herein. Following incorporation of these review comments, the preliminary plan will be approved by the city staff; or, at the request of the developer or staff, by the planning and zoning commission. Once the preliminary plan has been approved, a Mylar copy shall be submitted to the city. A preliminary plan will expire one year after approval unless:
- (1) An extension is applied for and granted by the development coordinator; or
 - (2) Development activity occurs within the one-year period following the initial approval of the SDRC.

Section 110-31. Final plat.

- (a) *General.* The final plat shall be consistent with all approved master and preliminary plans for the subject tract. All final plats shall be submitted within one year of approval of preliminary plans after which time, a new preliminary plan may be required. The application shall be as required by section 110-27. As applicable, the final plat submittal shall be accompanied by the design and construction documents as prescribed in subsection (d) of this section.
- (b) *Form and content.* The final plat shall be prepared and sealed by a registered professional land surveyor in accordance with the associated preliminary plan. The final plat shall be drawn on 24 inch x 36 inch sheets at a scale of not less than one inch = 100 feet, and shall specifically depict on the face of the plat:
- (1) Title block, including proposed subdivision name, phase, block and lot numbers, current legal description, acreage, name and address of present property owner, name and address of surveyor, and date of preparation.
 - (2) Primary control points or descriptions and ties to such control points to which all dimensions, angles, bearings and similar data shall be referred. The plat shall be located with respect to a corner of the survey or tract, or an original corner of the original survey of which it is a part.
 - (3) Tract boundary lines, lot lines, and right-of-way lines of streets and easements with accurate dimensions, bearings, and deflection angles, radii and central angles of all curves.
 - (4) All on-site easements and associated off-site easements.
 - (5) Lot corner markers and survey monuments by symbol (tie a primary boundary corner to a city control point).

- (6) Descriptions by metes and bounds of the subdivision which shall close within accepted land survey standards.
- (7) Adjacent property information including present ownership, legal descriptions (recorded volume and page), and property lines.
- (8) Vicinity map, drawn at a scale to adequately show the relationship of the property to adjacent areas and identifying features.
- (9) Scale and north arrow.
- (10) Include as applicable floodplains, floodways, significant drainage structures, railroads, significant structures, other physical features on or adjacent to the site and where applicable centerlines of all watercourses and the high banks of significant watercourses.
- (11) Street name, right-of-way widths, type and width of surfacing, and recorded volume and page of rights-of-way. Note: label all private streets.
- (12) Number to identify each lot and block and computed acreage of each chapter
- (13) Any areas reserved or dedicated for public uses.
- (14) Proposed minimum slab elevation (based on city approved datum) for areas of low wastewater service tolerances, property in or adjacent to a FEMA special flood hazard area, adjacent to detention facilities or as required by the city engineer.
- (15) Certifications as shown in section 110-34.
- (16) Index sheet for plats with more than one sheet that shows the entire subdivision drawn to a scale of not less than one inch = 500 feet.

(c) *Processing.*

- (1) *Final plat approval.* The final plat shall be reviewed by the city staff and the SDRC for conformity with the comprehensive plan, major thoroughfare plan, utility master plans, engineering standards and specifications, city ordinances, and the standards specified herein. The planning and zoning commission will take action by approving, disapproving, or conditionally approving the final plat. The city staff shall inform the developer in writing of the final decision of the planning and zoning commission including any conditions for approval or reasons for disapproval.
- (2) *Filing requirements.* Upon final plat approval, and after the developer pays all fees (which include parkland dedication, street sign, streetlight, county filing fee, etc.) and constructs all infrastructure improvements as prescribed in section 110-59 to the satisfaction of the city engineer or has submitted a guarantee of performance as prescribed in section 110-33, the plat shall be filed for recordation with the county clerk's office by the city staff. If all conditions, fees or improvements are not submitted or completed within one year of approval, then the plat approval shall expire unless an extension is applied for and granted by the development coordinator. An extension may be granted for a period not to exceed one year.

(d) *Public infrastructure improvements.*

- (1) *Submittal.* All infrastructure improvements shall meet or exceed city design criteria and specifications. As applicable, the final plat submittal shall be accompanied by the design and construction documents as prescribed below and bearing the seal and signature of a professional engineer licensed in the state and the engineering firm's name

and license number. All submittals shall be in accordance with the design guideline manual, including, but not limited to the following:

- a. *Water*. Plan and profile, fire flow/water design report, details, specifications, and a detailed engineering estimate.
- b. *Sanitary sewer*. Plan and profiles, a wastewater design report, details, specifications, and a detailed engineering estimate.
- c. *Streets*. Plan and profiles and a detailed engineer's estimate.
- d. *Stormwater*. Plan and profiles of culverts and channels, a grading plan with two foot contours, a drainage report, an erosion control plan, delineated drainage basins, details for all structures, specifications and a detailed engineering estimate.
- e. *Traffic control*. Plan showing appropriate traffic control measures in accordance with Texas Manual on Uniform Traffic Control Devices (TMUTCD).
- f. *Sediment/erosion control*. A stormwater pollution prevention plan (SWPPP) showing how sediment erosion will be minimized and contained. Three sets of documents shall be submitted for initial review by the city. After all comments have been addressed, the developer shall submit additional copies that will be stamped "released for construction". The city will require four sets of final documents for internal use and will stamp any additional sets the developer may wish to keep for his or her records. One set of final documents stamped "released for construction" will be required at the construction site. These documents will be valid for construction if construction begins within one year of the date shown on the "released for construction" stamp. If construction does not begin within one year, the plans would have to be resubmitted for review and approval and must meet all current standards in place at time of resubmission.

(2) *Construction of infrastructure*. The developer may begin construction upon approval by the city engineer of the engineering reports, plans, and specifications, and upon conditional approval of the final plat by the planning and zoning commission. The city will inspect the construction work as it progresses and will make final inspection to assure compliance with city standards. Upon acceptance by the city, all infrastructure improvements constructed for subdivisions within the city limits shall become the property of the city unless otherwise noted on the plat. The developer shall require from his or her contractors and material suppliers, and shall themselves furnish the city a written guarantee that all workmanship and materials shall be free of defects including healthy establishment of vegetative cover and maintaining/repairing erosion control measures for a period of one year from the date of acceptance by engineering services.

(3) *As-built drawings*.

- a. The developer shall provide engineering services with a single set of reproducible Mylar drawings of the constructed infrastructure. The drawings must be provided within 30 days of acceptance of completed infrastructure of all subdivision infrastructure improvements. Failure to do so could result in revocation or denial of construction permits and/or certificate of occupancy.
- b. The purpose of this requirement is to document the subdivision improvements as they were actually built. To this end, the drawings shall reflect the latest

revision of design by the developer's engineer, and shall reflect all field changes, which require approval by the city's duly authorized representative. The "as-built" drawings shall be prepared by the design engineer, under the guidance of the contractor, and shall bear a certification from the design engineer as follows:

"(Date) _____ To the City of Bryan: I certify that the subdivision improvements shown on this sheet reflect any revisions of design of which I authorized, and/or any and all field changes of which I am aware." The certification shall be executed by, and shall bear the seal and original signature of the professional engineer licensed in the state at the date of such certification.

c. Each sheet shall also bear a certification from the general contractor as follows:

"(Date) _____ To the City of Bryan: I certify that the subdivision improvements shown on this sheet were actually built, and that said improvements are substantially as shown hereon. I further certify, to the best of my knowledge, that the materials of construction and sizes of manufactured items, if any, are stated correctly hereon."

Section 110-32. Special plats or procedures.

(a) *Amending plats.*

(1) *General.* A plat may be considered an amending plat for many reasons, which include, but are not limited to correct an error, an omission, or a lot line adjustment, according to the V.T.C.A., Local Government Code § 212.016, as amended. The means to accomplish that purpose include, but are not limited to, the following:

- a. All lot owners join in the application for amending the plat;
- b. No lot is abolished or created;
- c. The amendment does not have a material adverse effect on the rights of other owners in the plat. For all circumstances regarding amending plats, consult V.T.C.A., Local Government Code § 212.016, as amended.

(2) *Form and content.* The amending plat shall depict both the current and the proposed configuration of all altered lots. The current configuration shall be located on the left side of the plat and shall depict all information as required for preliminary plans (section 110-30). The proposed configuration shall be located on the right side of the plat and shall depict all of the information as required for final plats (section 110-31).

(3) *Processing.* Amending plats shall be approved by the city planner and the city engineer. The city planner and the city engineer may elect to forward the plat to the planning and zoning commission for approval.

(b) *Minor plats.*

(1) *General.* This subsection (b) is applicable to a plat of a subdivision involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of public infrastructure in accordance with the V.T.C.A., Local Government Code § 212.0065.

(2) *Form and content.* Preliminary and final minor plats will be required in general conformance with the preliminary and final plat procedures. Information on preliminary plans and final plats may be provided on the same drawing if desired.

(3) *Processing.* Minor plats shall be approved by the city planner and the city engineer. The city planner and the city engineer may elect to forward the plat to the planning and zoning commission for approval.

(c) *Replat.*

(1) *General.* This subsection (c) is applicable to a revision of a previously platted subdivision that involves vacating the prior subdivision and resubdivides the property that usually changes the number of lots in accordance with the V.T.C.A., Local Government Code chapter 212. A replat shall follow the same procedures as are required for an original plat and shall comply with V.T.C.A., Local Government Code chapter 212, including requirements for public hearings and notifications.

(2) *Form and content.* The replat shall depict both the current and the proposed configuration of all altered lots. The current configuration shall be located on the left side of the plat and shall depict all information as required for preliminary plans (section 110-30). The proposed configuration shall be located on the right side of the plat and shall depict all of the information as required for final plats (section 110-31).

(3) *Processing.*

a. Residential replats require notification, a public hearing, and the approval of the planning and zoning commission, regardless of the number of lots involved, in accordance with V.T.C.A., Local Government Code chapter 212.

b. Commercial replats involving four or fewer lots may be approved by the city planner and the city engineer. The city planner and the city engineer may elect to forward the plat to the planning and zoning commission for approval.

c. Commercial replats involving more than four lots require notification, a public hearing, and the approval of the planning and zoning commission.

(d) *Right-of way abandonment.*

(1) *General.* This subsection (d) is applicable to release of a public right-of-way to the adjacent property owners.

(2) *Form and content.* The drawing shall depict both the current and the proposed configurations. The current configuration shall be located on the left side of the drawing and shall depict all information as required for preliminary plans (section 110-30). The proposed configuration shall be located on the right side of the drawing and shall depict all of the information as required for final plats (section 110-31).

(3) *Processing.* Right-of-way abandonment located within or adjacent to nonresidential districts or uses shall also follow amending plat requirements. Right-of-way abandonment shall be processed in accordance with requirements of an amending plat except that the following shall occur:

a. The applicant shall submit a petition signed by all abutting property owners concurring with the abandonment and whether they want their portion of the right-of-way to be abandoned. In lieu of all abutting property owner's signatures,

written notification shall be sent to all owners of lots within 200 feet of the right-of-way to be abandoned. (See V.T.C.A., Local Government Code chapter 212.)

b. Partial abandonment of a right-of-way must meet the approval of the SDRC.

c. The planning and zoning commission shall consider the abandonment and make recommendations to the city council, which will be the approving authority.

(e) *Vacating a plat.* (Refer to V.T.C.A., Local Government Code § 212.013). Vacating a plat shall follow the same procedure as prescribed for the original plat.

Section 110-33. Guarantee of performance.

(a) *General.* In order to record an approved final plat in which infrastructure improvements are required, the developer may either construct the improvements to the approval of the city engineer or submit a guarantee of performance if a guarantee of performance is approved by the city. If the developer elects to construct the required improvements prior to recording the plat, all such construction shall be inspected while in progress by engineering services, and must be approved upon completion by the city engineer. A letter of acceptance by the city engineer stating that the construction conforms to the city's standards must be obtained prior to recording the plat.

(b) *Methods of guarantee.* If the developer elects and the city engineer approves the filing of a guarantee of performance in lieu of completing construction prior to recording the plat, one of the following methods of posting security may be used.

(1) Unconditional letter of guarantee, letter of credit from a local bank, local federally insured savings and loan association or other financial institution in a form acceptable to the city and signed by a principal officer of the institution, agreeing to pay to the city, on demand, a stipulated sum of money to apply to the estimated costs of installation of all improvements. The letter of credit shall be dated to expire not less than one year from the recording of the final plat or not less than six months after the anticipated completion of the improvements, whichever is later.

(2) Performance bond submitted with the city by a surety company holding a license to do business in the state, in a form acceptable to the city, in an amount equal to the cost of all improvements, valid for a period of not less than one year from the date of acceptance of the infrastructure.

(3) Trust agreement placed on deposit in a bank or trust company in the name of the city, and acceptable to the city, a sum of money equal to the estimated cost of all improvements. Selection of the trustee shall be subject to approval by the city and the trust agreement shall be executed in a form acceptable to the city. Periodic withdrawals may be made from the trust account for a progressive payment of installation costs. The amounts of such withdrawals shall be based upon progress work estimates acknowledged by the city. All such withdrawals shall be approved by the trustee.

Section 110-34. Certifications.

(a) *Certificate of ownership and dedication.*

STATE OF TEXAS

COUNTY OF BRAZOS

I (We), _____, the owner(s) and developer(s) of the land shown on this plat, being (part of) the tract of land as conveyed to me (us, it) in the Deeds Records of Brazos County in Volume _____, Page _____, and whose name is subscribed hereto, hereby dedicate to the use of the public forever all streets, alleys, parks, watercourses, drains, easements and public places hereon shown for the purposes identified.

Owner

STATE OF TEXAS

COUNTY OF BRAZOS

Before me, the undersigned authority, on this day personally appeared _____, known to me to be the person(s) whose name(s) is/are subscribed to the foregoing instrument, and acknowledged to me that he or she executed the same for the purpose stated.

Given under my hand and seal of office this _____ day of _____, 20____.

Notary Public, Brazos County, Texas
(NOTARY SEAL)

(b) *Certification of the surveyor.*

STATE OF TEXAS

COUNTY OF BRAZOS

I, _____, Registered Public Surveyor No. _____ in the State of Texas, hereby certify that this plat is true and correct and was prepared from an actual survey of the property and that property markers and monuments were placed under my supervision on the ground, and that the metes and bounds describing said subdivision will describe a closed geometric form.

Registered Public Land Surveyor
(SURVEYOR'S SEAL)

(c) *Certification by the county clerk.*

STATE OF TEXAS

COUNTY OF BRAZOS

I, _____, County Clerk in and for said County, do hereby certify that this plat together with its certificates of authentication was filed for record in my office the _____ day of _____, 20_____, in the Official Records of Brazos County in Volume _____, Page _____.

County Clerk Brazos County, Texas
(SEAL)

(d) *Approval of the planning and zoning commission.*

I, _____, Chair of the Planning and Zoning Commission of the City of Bryan, State of Texas, hereby certify that the attached plat was duly filed for approval with the Planning and Zoning Commission of the City of Bryan on the _____ day of _____, 20_____ and same was duly approved on the _____ day of _____, 20_____ by said Commission.

Chair, Planning & Zoning Commission Bryan, Texas

(e) *Approval of the city planner.*

I, _____, the undersigned, City Planner and/or designated Secretary of the Planning and Zoning Commission of the City of Bryan, hereby certify that this plat is in compliance with the appropriate codes and ordinances of the City of Bryan and was approved on the _____ day of _____, 20_____.

City Planner, Bryan, Texas

(f) *Approval of the city engineer.*

I, _____, the undersigned, City Engineer of the City of Bryan, hereby certify that this plat is in compliance with the appropriate codes and ordinances of the City of Bryan and was approved on the _____ day of _____, 20_____.

City Engineer, Bryan, Texas

(g) *Approval by the county commissioner's court (for subdivisions in extraterritorial jurisdiction area).*

I, _____, County Judge of Brazos County, Texas, do hereby certify that the attached plat was duly approved by the Brazos County, Commissioners' Court on the _____ day of _____, 20_____.

County Judge, Brazos County, Texas

ARTICLE III. DESIGN STANDARDS FOR SUBDIVISIONS WITHIN THE CITY

Section 110-57. Generally.

No plat shall be approved by the planning and zoning commission or city staff and no completed improvements shall be accepted by the city unless they:

- (1) Conform to or exceed the following standards and specifications and all other applicable standards; or
- (2) An exception is granted as per article VI.
 - a. *Conformity with zoning.* Parcels must be consistent with zoning standards.
 - b. *Conformity with comprehensive plan.* The subdivision shall conform to the comprehensive plan of the city and any parts, amendments, and/or supplements thereto.
 - c. *Conformity with design and construction standards for streets, drainage, water and sanitary sewer construction.* All construction of infrastructure improvements shall be in accordance with the city's design guideline manual, utility master plans, and engineering standards, details, and specifications.
 - d. *Certain detailed standards and specifications not covered herein.* In circumstances where public health and safety issues are identified, the city manager may direct the city staff to specify additional requirements for a requested subdivision that are not covered within this chapter. No such requirement shall conflict with this or any other ordinance of the city.
 - e. *Reserve strips.* There shall be no reserve strips of property that create unusable tracts, added properties, and/or other nonconformities.
 - f. *Provision for future resubdivision.* If a tract is subdivided into parcels larger than ordinary building lots, such parcels shall be arranged so as to allow for the opening of future streets and future subdivisions.

Section 110-58. Special provisions for urban estate residential subdivisions.

Urban estate residential subdivisions consist of lots having a minimum area of one acre or greater that are intended for single-family residential use. Because of the larger lot size and lower population and traffic densities within these subdivisions, the use of rural street sections may be permissible in accordance with the design guideline manual. Other than the curbing, the streets shall be constructed to city standards as depicted in the design guideline manual. All of the other following standards of this article are applicable.

Section 110-59. Standards for subdivision design.

(a) *Public streets.*

(1) *Street layout.*

- a. *Thoroughfare plan.* Proposed streets must be in conformance with the city's thoroughfare plan. All arterial and collector street locations, alignments, right-of-way widths, pavement widths and cross sections shall be in accordance with the adopted plan and design guideline manual.
- b. *Consistency with existing streets.* The arrangement, character, extent, width, grade, and location of each proposed street shall be consistent with surrounding streets. Consideration shall be made for topographical conditions, public safety, convenience, and the proposed uses of land to be served by such streets.
- c. *Residential streets.* Internal local streets shall be laid out so as to discourage their use by through traffic.
- d. *Dead-end streets.* Dead-end streets or half streets shall be prohibited except for short stub-outs for future roadway extensions. Short stub-out streets may require special end treatments for drainage concerns and street integrity. Temporary turnarounds are required unless street stub-outs are one lot deep.
- e. *Secondary access streets.* Where a subdivision has frontage on an arterial street, the city may require a secondary access street to facilitate the sharing of curb cuts and/or to separate access to lots from through traffic. Refer to the city fire code for additional requirements on number of access points into a subdivision.
- f. *Projection of streets.* Where adjoining areas are not subdivided, the developer shall design and construct abutting streets, short stub-outs or temporary turnarounds for the projection of streets at proper block intervals into such unsubdivided areas.

(2) *Street design standards.*

- a. *Street design.* Street design shall be in accordance with the city's design guideline manual and engineering standards and specifications.
- b. *Curbs and gutters.* The developer shall install curbs and gutters on all new streets except in urban estate subdivisions or when engineering services deems appropriate.
- c. *Curb cuts.* Curb cuts must conform to the standards within the site development review ordinance. Restrictions to location, design, size, and/or number of curb cuts may be imposed by the SDRC on subdivisions when traffic safety concerns are identified.
- d. *Pavement standards.* All streets of any type, both public and private, shall be paved in accordance with city construction details and specifications. The city engineer may require increased right-of-way or pavement widths if traffic impacts of the proposed development or conditions in the area merit such changes.

(3) *Streetlights.*

- a. Streetlights shall be installed at all street intersections and other locations within the subdivision in accordance with the utility standards of BTU.
- b. Streetlights shall be installed by the city at the developer's expense.

(4) *Names of streets.*

- a. Names of new public or private streets within the Brazos County 911 district shall not duplicate or cause confusion with existing streets. Street extensions shall use the existing street names.
- b. The city, at the developer's expense, shall install street signs.
- c. Standards for placement of signs and street naming and addressing shall be in accordance with the city's addressing standards.

(b) *Alleys.*

- (1) Alleys shall generally be parallel to the street and shall be designed in accordance with the city's design guideline manual.
- (2) Where two alleys intersect, or where an alley turns, additional width may be required to allow turning of vehicles or guying of utility poles.
- (3) Dead-end alleys shall not be permitted, except where the alley is 100 feet or less in length. Dead-ends may require special end treatments for drainage concerns and pavement integrity.
- (4) In all alleys, easements may be required on either side for utility placement.

(c) *Street lengths.*

- (1) Block lengths shall not exceed:
 - a. One thousand two hundred feet along local and collector streets;
 - b. One thousand six hundred feet along major thoroughfares;
 - c. Two thousand feet in subdivisions with lot size equal to or greater than one acre.
- (2) In blocks over 1,200 feet in length, a pedestrian access easement may be required near the center of the block.
- (3) Cul-de-sac street lengths (as measured from the beginning radius of the cul-de-sac) shall not exceed:
 - a. Eight hundred feet in subdivisions with lot sizes less than one acre;
 - b. One thousand two hundred feet in subdivisions with lot sizes equal to or greater than one acre.
- (4) Loop street lengths shall not exceed:
 - a. One thousand six hundred feet in subdivisions with lot sizes less than one acre;
 - b. Two thousand four hundred feet in subdivisions with lot sizes equal to or greater than one acre.

(d) *Easements.*

- (1) *Drainage easements.* Drainage easements may be required where a watercourse, drainage way, underground drainage pipe, natural channel or stream traverses a

subdivision. No construction, including fences, shall impede, constrict, or block the flow of water in any easement or natural watercourse. Such easement shall not be considered a part of the lot area for purposes of minimum lot size requirements of the zoning ordinance. No other utilities will be allowed within a drainage easement.

(2) *Utility easements.* Each subdivision shall establish those easements necessary for design, construction, and maintenance of public services that will serve and/or cross the subdivision.

a. The width for all water and sanitary sewer utilities shall be a minimum of 15 feet and may need to be wider depending on type and depth of utilities or the easement location.

b. Where any aerial electrical utilities will be installed, these utility easements shall be a minimum of 20 feet in width. Depending on services required and project design, easement width may be increased.

c. Where any public or private utility line is required by the developer to be adjusted in location or elevation, the developer shall cause such changes to be made with the approval of the appropriate city representatives and shall bear all costs of such changes.

d. Easements with multiple utilities may require additional width.

e. Additional easements may be required for the placement of guy wires where utility easements are not straight within each block, or if such easements do not connect directly with adjoining blocks.

(3) *Streetlight easements.* Streetlight easements of ten feet in width shall be provided between necessary interior lot lines (five feet on each side or ten feet on one lot) where overhead electrical service is from the rear.

(4) *Access easements.*

a. *Vehicular access easements.* Vehicular access easements may be required to facilitate the sharing of curb cuts between adjacent owners of property fronting on collector and/or arterial streets. Vehicular access easements may also be used to provide access for properties which do not have direct frontage on public rights-of-way. Driveways in such easements shall be constructed using the same standards as alleys.

b. *Pedestrian access easements.* Pedestrian easements may be required where deemed necessary by the planning and zoning commission or staff to provide pedestrian circulation within the subdivision or access to schools, shopping centers, recreation, transportation, or other community facilities. Such easements shall be at least ten feet in width and include a minimum four-foot sidewalk.

(e) *Lots.*

(1) All lots shall meet minimum design standards required by chapter 62.

(2) All lots shall be provided with adequate access to a public street. Flag lots or access easements are permissible where appropriate to meet this requirement.

(f) *Monuments.* All monuments shall comply the minimum standards for professional land surveyors as adopted by the Texas Board of Professional Land Surveying and in specific

compliance with the Professional Land Surveying Practices Act (V.T.C.A., Occupations Code chapter 1071) and board rule.

(g) *Drainage and stormwater management.* Subdivision stormwater management shall be in accordance with the city stormwater management ordinance and design criteria established by the city engineer.

(h) *Electrical service.* All electrical distribution lines shall be installed underground.

(i) *Water and wastewater service.*

(1) All subdivisions shall provide water distribution and wastewater collection systems that are approved by the city engineer. Design shall be consistent with the city standards of construction, engineering standards and specifications, and the utility master plans.

(2) All subdivisions shall connect with the publicly owned water distribution and wastewater collection systems unless an exception is approved by the SDRC. If the exception is approved, the developer must submit evidence of conformance with TCEQ, the county health department, and the city fire flow requirements.

(3) The developer shall extend water distribution and wastewater collection lines from the nearest city approved point of connection to the furthest boundary line of the platted subdivision along the right-of-way line. This is required in order to provide a point of connection for adjacent properties not having access to such services.

(4) Fire hydrants shall be installed at intervals in accordance with the design guideline manual. In areas not served by the city, the developer must perform a fire flow test on the system with the city staff as witnesses to assure adequate fire protection is provided.

(j) *Sidewalks.* Sidewalks shall be installed by the developer along both sides of all urban residential streets, arterials, collectors and cul-de-sac streets (not including around the bulb of cul-de-sac streets), except along existing streets without curbs and gutters. Sidewalks shall be constructed to city standards including handicap accessibility at corners and access drives. All sidewalks must terminate into streets or access drives with ambulatory ramps. New sidewalks shall be built to adjoin existing walks and taper to required width if necessary.

(k) *Gated subdivisions.*

(1) *Purpose.* The purpose of this subsection (k) is to achieve orderly development of a gated subdivision, and to promote the health, safety, and general welfare of the city.

(2) *General requirements.*

a. Gating of a public roadway is prohibited. However, gates may be placed in order to enclose subdivisions restricting access to privately owned and maintained streets. Private streets for gated subdivisions shall be clearly labeled and defined on all master plans, preliminary plans, and final plats for the subdivision. All master plans and preliminary plans for gated subdivisions shall be considered for approval by the planning and zoning commission and city council. No gated subdivision shall be approved unless the city council further finds that the gated subdivision conforms with the comprehensive plan, major thoroughfare plan, utility master plans, engineering specifications, city ordinances, and does not adversely affect health, safety and general welfare.

- b. The gate shall not block area-wide through routes or block access for roadways to serve future development.
- c. Access shall be provided at all times for police, fire, city inspection, mail delivery, garbage pickup, utility, school buses, Para transit, demand and response vehicles, and other health and safety related vehicles. Access must not require drivers to exit their vehicle.
- d. A private street subdivision will not block an existing or proposed thoroughfare as shown on the city's most recent thoroughfare plan. A private street subdivision will not disrupt or cross an existing or proposed city public pedestrian pathway, hike and bike trail or park as shown on the city's most recent parks and trails master plan. In addition, public parkland dedicated as a requirement of the gated subdivision (as outlined in section 110-60) shall not be enclosed within the gated area.
- e. The gate design and implementation shall be such that it does not pose a threat to public health, safety and welfare.
- f. Water and sewer main lines located within a public utility easement shall be maintained by the city.

(3) *Homeowner's association (HOA).*

- a. A homeowner's association shall be established with direct responsibility to, and controlled by, the property owners involved to provide for operation, repair and maintenance of all private streets and sidewalks, which are part of the gated subdivision.
- b. The legal instrument establishing the homeowner's association shall be submitted with the application for final plat.
- c. The city shall have practical access to the subdivision at any time without liability when on official business. The city may remove obstructions including any gate and guard (house) upon noncompliance by the HOA of any terms of this chapter or if necessary for emergency vehicle access. In the event the city must remove obstructions to access the development, the HOA will be assessed all costs of removal.
- d. Maintenance responsibilities of the HOA shall be reviewed by the city on an ongoing basis. In the event the city deems that repairs to private streets within a gated community are necessary to ensure safe access and passage for any health and safety related vehicles, the city will notify the HOA by letter of the needed repairs. Should the HOA fail to provide the satisfactory repairs deemed necessary in a time frame set by the city in the notification letter, then the city may make the necessary repairs and assess the HOA all costs borne by the city in repair of the private streets, and may deduct the costs from the street maintenance reserve fund, if any, held by the city.

(4) *Geometric design guidelines and reserve maintenance fund.*

- a. All streets in the development shall be designed and constructed in accordance with the city design guidelines, technical specifications and details. Prior to approval of the final plat, private streets built to these standards shall require the payment by the developer of a street maintenance reserve fund in an amount equal

to \$78.30 per lineal foot of private street. A special fund shall be established by the city for the deposit of the development's street maintenance reserve fund. The street maintenance reserve fund shall be held by the city until the fund is exhausted or the streets become public, in which event the remainder of the fund shall be forfeited to the city. The city may release all or portions of the fund to the HOA upon submission to city of contractor invoices for maintenance and repair of the streets.

b. Developments may be exempted from the street maintenance reserve fund requirements outlined above, if streets are constructed of a higher standard, including a minimum eight-inch thick Portland cement reinforced concrete paving over a minimum six-inch thick stabilized sub grade.

c. The gate location shall not be placed on a public right-of-way or easement.

d. All mechanical or manual operating functions shall meet fire department requirements and provide passage with unobstructed vertical and horizontal clearance.

e. Gated entryway throat length designs taking access from residential and collector roadways shall meet the following requirements:

1. A minimum of 60 feet for up to 30 single-family lots;

2. A minimum of 100 feet for 31 single-family lots or greater.

f. The gated entryway throat lengths taking access from major and minor arterials shall be determined and approved on a case-by-case basis by the planning and zoning commission.

g. Gated entryways to subdivisions shall provide adequate access for pedestrians and bicycles.

h. To prevent backing into a public street, gated entryways to subdivisions shall provide adequate turnaround areas for vehicles that are denied access.

i. The gated area shall provide a minimum unobstructed vertical clearance of 14 feet six inches from finished roadway surface over the entire width of the entry roadway.

j. Public safety elements and signing shall be included in the gate entryway design.

(5) *Indemnity.* The developer and the HOA hereby unconditionally and irrevocably agree to indemnify, defend and hold the city and city's officials, agents, employees and contractors harmless, from and against any loss, liability, demand, damage, judgment, suit, claim, deficiency, interests, fee, charge, cost or expense (including, without limitation, interest, court cost and penalties, attorney's fees and disbursement and amounts paid in settlement, or liabilities resulting from any change in federal, state or local law or regulation or interpretation hereof) of whatever nature, even when caused in whole or in part by the city's negligence or the joint or concurring negligence of the city and any other person or entity, which may result or to which the city and/or any of the city's officials, agents, employees, and contractors may sustain, suffer, incur or become subject to in connection with or arising in any way whatsoever out of the maintenance, repair, use, or occupation of the common facilities, or any other activity of whatever nature in connection therewith, or arising out of or by reason of any investigation,

litigation, or other proceedings brought or threatened, arising out of or based upon the operation, management, maintenance, repair and use of the common facilities, or any other activity in the subdivision.

- (l) *Two subdivision identification signs.* Two subdivision identification signs are permitted per neighborhood, subdivision, or development entrance not to exceed 60 square feet per sign in sign area if said entrance has a median. One entrance sign is permitted per neighborhood, subdivision, or development entrance, not to exceed 60 square feet in sign area if said entrance does not have a median.

Section 110-60. Parkland dedication requirements.

(a) *Purpose.*

(1) This section is adopted to provide recreational areas in the form of community parks as a function of subdivision development in the city. This section is enacted in accordance with the Home Rule powers of the city, granted under the Texas Constitution, and the statutes of the state, including, but not by way of limitation, V.T.C.A., Local Government Code chapter 212. It is hereby declared by the city council that recreational areas in the form of community parks are necessary and in the public welfare, and that a good procedure to provide for same is by integrating such a requirement into the procedure for planning and developing property or subdivisions in the city, whether such development consists of new construction on vacant land or rebuilding and remodeling of structures on existing residential property.

(2) Community parks typically serve an area with a radius of one mile, and most of these also serve as neighborhood parks. Access is generally vehicular. Typical functions include organized and spontaneous active sports as well as picnic/play areas. Facilities may include off-street parking, restrooms, basketball courts, tennis courts, backstops, open play areas for football or soccer, picnic/play areas and group pavilions. Each city council single-member district shall coincide with a park zone. The park zones may be reviewed for potential revision by the parks and recreation advisory board. Changes in the boundaries of park zones must be approved by the city council. The primary cost of parks should be borne by the ultimate residential property owners who, by reason of their proximity of their property to such parks, shall be the primary beneficiaries of such facilities. Therefore, the following requirements are adopted to affect the purposes stated.

(b) *Dedication of parkland required.*

(1) All residential developments shall be required to provide for the parkland needs of future residents through the fee simple dedication of suitable land for park and recreational purposes. The area shall be shown on the preliminary and final plat and included in the dedication statement.

(2) To maintain the current level of park service, the subdivider shall dedicate to the city parkland as a part of final plat approval. The amount of land required shall be calculated at a rate of not less than one acre of parkland per 74 single-family dwelling units or 90 multiple-family dwelling units. The following formulas shall be used to determine the amount of parkland to be dedicated (see methodology, Appendix 1): For 36 months after

official adoption by the council of this parkland dedication ordinance, the amount of parkland to be dedicated shall be as follows:

- a. Single-family: 1.0 acre per 74 dwelling units.
- b. Multiple-family: 1.0 acre per 90 dwelling units.

These figures will be reevaluated every three years and may be modified by resolution of the city council.

(3) In the event a plat is not required, this dedication shall be met prior to the issuance of a building permit.

(4) Manufactured home communities shall be charged at the multiple-family rate.

(5) Information must be provided identifying the total number of proposed residential dwelling units at the time that the subdivision plat is submitted for residential development.

(6) Land dedicated for park and recreational purposes shall be of a size, character, and location consistent with the guidelines provided in the parks and recreation master plan. Any land to be dedicated as parkland shall meet the standards for dedication of parkland. The required dedication of this section may be met by a payment of a fee in lieu of land when permitted or required by other provisions of this section.

(7) The dedication required by this section shall be made by filing of the final plat or contemporaneously by separate instruments unless additional dedication is required subsequent to the filing of the final plat. If the actual number of completed dwelling units exceeds the figure upon which the original dedication was based, additional dedication shall be required and shall be made by the fee in lieu of land amount. If the actual number of completed dwelling units is less than the fee in lieu of land paid, and if the city has not committed to the use of such funds, a refund may be requested. The following items relate to the dedicated park property survey and are required to be submitted prior to, or at the time of, final plat approval:

- a. Dedicated park property survey requirement.

- 1. *Drawing.*

- (i) In ink or CAD document.
 - (ii) Sheet size 24 inches times x 36 inches.
 - (iii) Scale one inch = 30 feet or larger.
 - (iv) Index sheet if survey is more than one sheet.

- 2. *Data.*

- (i) Closest benchmark, and/or beginning point, to site.
 - (ii) Provide topographic information on this site as called for by the City of Bryan Ordinance No. 616, section 8.B.2a.
 - (iii) Location, dimensions, and purpose of all easements.
 - (iv) Number to identify lot, size and block.
 - (v) Minimum setback lines on all lots within park boundary. The specific distance varies as to structure type. These details are identified in City of Bryan Ordinance No. 616.
 - (vi) Location and description of monuments.

- (vii) Reference to recorded subdivision plats or adjoining public land by recorded name, date, and number.
- (viii) Title, scale, north arrow, date of survey.
- (ix) Written metes and bounds description.
- (x) Name and right-of-way adjoining property.
- (xi) Names, size and location of telephone, gas, water, and sanitary sewer lines in and adjoining the site.
- (xii) Limits of floodway and flood hazard areas (100-year floodplain) as per adopted maps published by FEMA.

3. *Titles and certificates.* Certification of registered state public surveyor certifying to accuracy of survey.

(8) The dedication required by this chapter shall be made by filing of the final plat and also by general warranty deed, which shall be recorded after filing. The land so dedicated and deeded shall not be subject to any reservations of record (except for minerals), encumbrances of any kind, or easements which in the opinion of the city parks and recreation division manager will interfere with its use for recreational purposes.

(c) *Money in lieu of land dedication.*

(1) Subject to subsection (c)(3) of this section, a landowner responsible for dedication under this section may elect to meet the requirements of this section in whole or in part by a cash payment in lieu of land. Such payments shall be made by submitting a cashier's check after the time of final plat approval but prior to the time the plat is filed with the county clerk's office, or prior to the issuance of a building permit where a plat is not required.

(2) The city may from time-to-time decide to purchase land for parks in or near actual or potential development. If the city does purchase parkland in a park zone, subsequent parkland dedications for that zone may be in cash, at the city's discretion. The basis for determining the fee in lieu of land is specified in subsection (c)(3) of this section.

(3) The dedication requirement shall be met by a fee in lieu of land at a per-acre price set from time-to-time by resolution of the city council, sufficient to acquire land and to provide for adjacent streets and utilities for a community park to serve the park zone in which such development is located (see methodology, Appendix 1). Cash payments may be used only for acquisition and improvement of a community park located within the same zone as the development. Fees in lieu of land will be calculated as follows (see methodology, Appendix 1): For 36 months after official adoption by the council, the parkland dedication fees in lieu of land shall be as follows:

- a. Single-family: \$162.00 per dwelling unit
- b. Multifamily: \$133.00 per dwelling unit

For a subdivider to pay a fee in lieu of land, the subdivider must first obtain final approval from the planning and zoning commission with the recommendation of the parks and recreation advisory board. The planning and zoning commission and the parks and recreation advisory board will take into consideration recommendations from the SDRC and parks and recreation division as to whether

it is best for a park to be placed in the development or accept a fee in lieu of land instead.

(d) *Park development fee.* In addition to the land dedication, there shall also be a fee set from time-to-time by resolution of the city council sufficient to provide for the development of the land for neighborhood park purposes. The development fees shall be paid into a fund and those fees shall be tied to the parkland dedication that the subdivider made (by land or fee in lieu of land). For 36 months after official adoption by the council, the parkland development fees shall be as follows:

- (1) Single-family: \$358.00 per dwelling unit
- (2) Multifamily: \$292.00 per dwelling unit

(e) *Special fund created and right to refund.*

(1) There is hereby established one special fund for the deposit of all sums paid in lieu of land dedication and development fees under this section. These funds shall be established, maintained, and utilized by the community services department.

(2) The city shall account for all sums paid in lieu of land dedication and development fees under this section with reference to the individual plats involved. Any funds paid for such purposes must be expended by the city within seven years from the date received for acquisition or development of a community park as defined herein. Such funds shall be considered to be spent on a first in, first out basis. If not so expended, the subdividers of the property on the last day of such period shall be entitled to a prorated refund of such sum. The subdividers of such property must request entitlement within one year of entitlement, or such right to a refund shall be waived. Refunds shall include any accrued interest minus one percent administrative costs.

(f) *Standards for dedication of parkland.*

(1) When an area of less than six acres is required to be dedicated, the city shall have the right to accept the dedication or refuse the same and require the payment of fees in lieu thereof.

(2) Any land dedicated to the city under this section must be suitable for park and recreation uses. Consideration will be given to land that is in the floodplain or may be considered "floodable" even though not in the federally regulated floodplain as long as due to its elevation, it is suitable for park improvements.

a. Community park sites shall be adjacent to residential areas in a manner that serve the greatest number of users.

b. Community park sites shall be located in a manner where, if at all possible, the first consideration is that users are not required to cross arterial roadways to access them.

(3) Community parks shall be easy to access and open to public view so as to benefit area development, enhance the visual character of the city, protect public safety and minimize conflict with adjacent land uses. The following guidelines shall be used in designing parks and adjacent development.

a. Where physically feasible, park sites shall be located adjacent to schools in order to encourage shared facilities and potential co-development of new sites.

b. A proposed subdivision adjacent to a park may not be designed to restrict reasonable access to the park from other area subdivisions.

c. Where a nonresidential use must directly abut a park, the use must be separated by a screening wall or fence and landscaping. Access points to the park may be allowed by the planning and zoning commission with the recommendation of the parks and recreation advisory board, if public benefit is established.

d. The dedicated parkland shall provide a maximum of exposure to public areas. A minimum of 200 feet of frontage on a dedicated public street is required. The frontage shall be continuous and front on a street with 70 feet or less of dedicated right-of-way.

e. If potable water and sewage connections will serve the subdivision, such connections shall be readily available at the park site, with water and waste water lines. Subdivisions which will utilize individual septic systems are not required to provide dedicated parkland with an individual septic system.

f. The condition of any area or part of an area to be dedicated as parkland which is altered during any phase of the development must be restored in accordance to terms specified by the community services director or his or her designee. The exact restoration requirements will be determined on a case specific basis according to the pre- and post-construction condition of the parkland to be dedicated.

(g) *Review of the dedication requirements.* The city shall review the fees set forth in this section every three years. The city shall take into account inflation as it affects land and park development costs as well as the city's recreation and open space plan. Fees will be set by resolution of the city council.

(h) *Additional requirements.* Unless provided otherwise herein, any action by the city shall be by the city council, after consideration of the recommendations of the planning and zoning commission and the parks and recreation advisory board. Any proposal considered by the planning and zoning commission under this section shall have been reviewed by the parks and recreation advisory board, and its recommendation given to the commission.

Editor's note: City of Bryan Parks and Recreation Division Parkland Dedication Fee Costs for Community/Neighborhood Parks; Appendix 1 and Appendix C City of Bryan Parks and Recreation Division Parkland Dedication Fee Methodology is not set out at length in this Code, but is on file and available for inspection in the planning and zoning department.

Sections 110-61--110-78. Reserved.

ARTICLE IV. DESIGN STANDARDS FOR SUBDIVISIONS IN THE EXTRATERRITORIAL JURISDICTION (ETJ)

Section 110-79. Generally.

The requirements of article III shall apply to subdivisions in the area of extraterritorial jurisdiction, with the following modifications:

(1) *Public streets.* Streets shall be in conformity with the requirements of section 110-59(a), except that right-of-way and pavement widths for new streets in subdivisions with lots of one acre or greater shall be required to meet Brazos the county standards only.

- (2) *Utility easements.* The minimum required width for utility easements shall be per the county standards.
- (3) *Streetlights.* Streetlights are not required for subdivisions with lots over one acre.
- (4) *Lots.* Lots in the ETJ must meet the requirements below:
 - a. Minimum lot width of 50 feet for lots under one acre.
 - b. Minimum lot width of 150 feet for lots of one acre or more.
 - c. Minimum lot depth of 100 feet.
 - d. Minimum lot area of 5,000 square feet for lots having wastewater collection and treatment.
 - e. Minimum lot area of one acre for on-site sewage disposal and shall be in accordance with the county standards.
- (5) *Front building setbacks.* A minimum 25-foot setback shall be required along the front of all ETJ lots that are along county roads. A minimum 50-foot setback shall be required along the front of all ETJ lots that are along state or federal roads in accordance with the county standards.
- (6) *Water and wastewater services.*
 - a. *Wastewater.*
 - 1. For ETJ subdivisions with lots less than or equal to one acre, wastewater collection/treatment shall be in accordance with city standards.
 - 2. For ETJ subdivisions with lots greater than one acre, wastewater collection lines and treatment shall be in accordance with the state applicable standards.
 - b. *Water.* For all ETJ subdivisions, water distribution lines shall be in accordance with city standards. The requirements will include the fire flow requirements in accordance with the International Fire Code and the engineering design guidelines.
 - c. *County and state regulations.* All applicable county and state regulations shall apply for water and wastewater service.
- (7) *Sidewalks.* Within the ETJ, sidewalks are not required under the following conditions:
 - a. Along major streets which do not have existing curbs and gutters.
 - b. Along streets within subdivisions with lots over one acre.
- (8) *Parkland dedication requirements.* Parkland dedication is not required for ETJ subdivisions.

Sections 110-80--110-101. Reserved.

ARTICLE V. EXCEPTIONS

Section 110-102. Generally.

- (a) The planning and zoning commission may authorize exceptions from design standards contained in articles III and IV, except for standards pertaining to zoning regulations. The

planning and zoning commission may authorize such exceptions when, in its opinion, compliance would not be in the public interest. In granting an exception, the planning and zoning commission shall prescribe only conditions that it deems necessary or desirable in the public interest.

(b) In making the findings required below, the planning and zoning commission shall take into account the nature of the proposed use of the land involved, existing uses of land in the vicinity, the number of persons who will reside or work in the proposed subdivision, and the probable effect of such exception upon traffic conditions and upon the public health, safety, convenience, and welfare in the vicinity.

Section 110-103. Findings.

(a) No exception shall be granted unless the planning and zoning commission finds that:

(1) There are special circumstances or conditions affecting the land involved such that the strict application of the provisions of the standards would deprive the applicant of the reasonable use of his or her land;

(2) The exception is necessary for the preservation and enjoyment of the property;

(3) The granting of the exception will not be detrimental to the public health, safety, or welfare, or injurious to other property in the area; and

(4) The granting of the exception will not have the effect of preventing the orderly subdivision of adjoining land in the vicinity in accordance with the provisions of this chapter.

(b) Such findings of the planning and zoning commission, together with the specific facts upon which they are based, shall be incorporated into the official notification to the applicant.

(c) Exceptions may be granted only when in harmony with the general purpose and intent of these standards so that the public health, safety and welfare may be secured and substantial justice done.

(d) All requested exceptions shall be submitted in writing at the time of formal application to the development coordinator.

Sections 110-104--110-134. Reserved.

ARTICLE VI. ENFORCEMENT

Section 110-135. Conflict with other provisions.

(a) *Public provisions.* The regulations are not intended to interfere with, abrogate, or annul any other chapter, rule or regulation, statute, or other provision of law. Where any provision of these regulations imposes restriction different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

(b) *Private provisions.* These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant, or other private agreement or restriction, the requirements of these regulations shall govern.

Section 110-136. Legal recourse.

(a) At the request of the city council, the city attorney or his or her designated representative shall institute appropriate action in a court of competent jurisdiction to enforce these regulations.

(b) Any person violating any provision of this chapter within the city limits shall be guilty of a misdemeanor and, upon conviction, is punishable by a fine of up to \$2,000.00 per day or as currently specified in section 1-14.

(c) In the event any provision of this chapter is violated within the area of extraterritorial jurisdiction outside its corporate limits, the city may institute any appropriate action or proceedings in the district court to enjoin the violation.